

Dignity at work policy

1 Introduction

1.1 Since the Information Commissioner's Office (ICO) introduced the original Bullying Policy and Procedure, organisational developments and legislative changes have impacted on both the scope of the policy and its implementation. A review of the policy identified a need to move away from adversarial, procedure-driven methods of conflict resolution and towards achieving a working environment that encourages personal and professional respect, supported by mechanisms for early intervention and mediation between parties.

2 Policy Statement

- 2.1 At the ICO, we are committed to providing a work environment and culture in which all employees have the right to be treated with dignity and respect, free from intimidation and harassment. Equally, we expect all employees to treat all those with whom they come into contact at work with the same dignity and respect.
- 2.2 We recognise that threatening or intimidating behaviour can create a work environment that interferes with job performance, undermines job security, causes undue stress and can lead to absenteeism.
- 2.3 We also recognise that harassment and bullying are serious offences and we will not tolerate any form of harassment or bullying by employees at any level. It is upsetting and humiliating, and can be unlawful.
- 2.4 We will deal with all complaints of harassment and bullying promptly, fairly and confidentially.

3 Policy Aim

3.1 The aims of this policy are to:

- increase awareness of what is unacceptable behaviour;
- increase awareness that any form of harassment is unacceptable;
- provide a mechanism for complainants to report cases for resolution; and
- provide a mechanism for complaints to be properly investigated and addressed.

4 Definitions

Harassment

4.1 In general terms, harassment is defined as any unwelcome behaviour that has the effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Harassment may be related to a person's age, sex, race, disability, religion, sexual orientation, nationality or a personal habit or characteristic. Harassment can take many forms, and it may be directed at one person or a number of people.

Bullying

4.2 In general terms, bullying is defined as offensive treatment through vindictive, cruel, malicious or humiliating attempts to undermine an individual employee or groups of employees. These persistently negative attacks on the employee's personal and professional performance are often not apparent to anyone else.

4.3 Bullying may combine a variety of different approaches. It can be experienced from manager to subordinate, subordinate to manager, peer to peer, group of staff to individual. It is insidious (in other words, implied criticism rather than actually stated) and undermines the ability and confidence of the person on the receiving end.

5 Unacceptable Behaviour

5.1 A one-off act, if it is serious, can amount to bullying or harassment. It is essential to remember that it is not the intention of the perpetrator (the person accused of bullying or harassment) that decides whether bullying or harassment has taken place; instead, it depends on whether the behaviour is unacceptable by reasonable normal standards, and is harmful or unwelcome to the person or people on the receiving end.

5.2 Examples of unacceptable behaviour include:

- derogatory comments, offensive language, remarks or jokes;
- spreading malicious rumours or insulting someone;
- insulting behaviours or gestures;

- displaying offensive or suggestive literature or remarks;
- intrusion by pestering, spying or stalking;
- embarrassing, threatening, humiliating, patronising or intimidating remarks;
- unwanted physical contact;
- physical or verbal assault, such as shouting;
- unwelcome sexual advances, such as touching or standing too close;
- undermining a person's self-esteem, for example by constantly making unfavourable comparisons with others or belittling their status;
- deliberately undermining a competent worker by overloading or under loading them with work, and constantly criticising them;
- excluding or isolating a colleague, not co-operating with them or victimising them; and
- wearing clothing (such as a T-shirt) with an offensive motif.

5.3 Bullying and harassment are not necessarily face-to-face; people can be bullied and harassed by way of telephone, written communications, such as e-mail or text message or directed through a third party.

5.4 ICO employees failing to fulfil their responsibility under this policy may face disciplinary action. Single, serious offences or repeated breaches of this policy may result in dismissal under the ICO's disciplinary policy.

6 Employees' responsibilities

6.1 Employees at all levels are expected to comply with this policy. Every employee has a responsibility to behave in a manner that is not offensive to others. As part of this responsibility, you must not ignore offensive behaviours in others and should report the matter to management.

7 Managers' responsibilities

7.1 Managers have a particular responsibility for making sure that this policy is implemented by communicating the policy and resolving any instances of harassment or bullying quickly and confidentially.

8 HR responsibilities

8.1 The Human Resources (HR) Team is responsible for:

- making sure that staff and managers are provided with appropriate advice and guidance on the use of this procedure, including training where necessary; and
- monitoring matters concerned with dignity at work across the ICO.

For this reason, an appropriate member of the HR Team will be involved in all formal stages of the procedure.

9 HR 'Champions'

9.1 We recognise that it may be difficult or sensitive for individual employees to report incidents of bullying or harassment. HR will therefore provide a pool of trained HR Champions to offer information and support. The HR Champion's role will be to provide advice, guidance and support to individuals at difficult times, rather than to resolve the actual complaint. Contact details will be available from HR and will be displayed on ICON.

10 Confidentiality

10.1 All internal complaints, investigations and subsequent actions must be treated in strict confidence. Only the necessary and relevant people will be involved in dealing with a complaint. All parties must respect the confidentiality of everyone involved. We may deal with a breach in confidentiality through the ICO's disciplinary procedure.

11 Malicious complaints

11.1 Although it is extremely rare, an investigation may reveal that a complaint has been made maliciously. If this happens, the complainant (the person claiming that they have suffered bullying or harassment) may face disciplinary action. It must be stressed, however, that this should in no way deter genuine complaints of harassment or bullying as they will be dealt with sympathetically and constructively.

12 Anonymous complaints

- 12.1 We may receive anonymous allegations of bullying or harassment through the "Whistle-blowing procedure". While we recognise that it is very difficult to investigate such complaints, management will conduct as thorough an investigation as possible, given the information available. This will always include informing the accused person that a complaint has been received about them and asking for their views. Given the anonymity of the complainant however it may be impossible to investigate such a complaint.
- 12.2 If an allegation is made by someone other than the person who is being bullied or harassed, the investigating officer must check whether the person making the allegation is prepared to make a statement. In addition, the employee who is thought to have been bullied or harassed must be informed that an allegation has been made and to find out whether they feel that they are being bullied or harassed. If so the investigating officer should encourage them to make a complaint or advise them of the other available options. In some instances, where there is reasonable grounds to suspect a serious breach, the organisation will instigate the formal procedure, even if the 'victim' will not make a formal complaint

13 Complaints against non ICO employees

- 13.1 If a complaint involves employees of other organisations we have dealings with on a regular basis, for example government departments, contractors or consultants, we will seek full co-operation of the organisation and encourage them to deal with the matter in line with the principles of this policy. If the organisation refuses to co-operate, the investigation will continue and when it is completed we will tell the organisation what action we would like them to take to protect our employees. Ultimately, we may remove the employee from one-to-one contact with the accused person.
- 13.2 It will probably be necessary to advise the organisation involved of the identity of the complainant and the details of the complaint.
- 13.3 If the allegation of bullying or harassment is made against a non-executive Board member, we will use our code of conduct and inform the Information Commissioner.

14 Informal procedure

- 14.1 If you believe that you or any other employee have been harassed or bullied in any way, you should, if you feel able to do so, tell the person or people concerned that you find their behaviour is offensive and unwelcome, and that it should stop immediately. By asking them to stop, you are making it clear that their behaviour has caused you offence and they have an opportunity to stop without anyone else being involved.
- 14.2 If you prefer, you can write to the person or people concerned, keeping a dated copy of the letter, or you can ask a work colleague or Trade Union representative to speak to that person on their behalf. Any informal action that you or your representative takes should be recorded.
- 14.3 This kind of informal action may be enough to end the harassment or bullying, especially if the accused person is unaware that he or she is causing offence.

15 Mediation

- 15.1 If an informal approach has been unsuccessful, or if you do not feel that the formal procedure is the right option, you may want to consider mediation as an alternative to the formal procedure. Mediation is a voluntary option and is not the answer to every conflict. It can only be used when both parties agree to take part.
- 15.2 Mediation gives both parties the opportunity to talk directly about the issues that are affecting them, without the stress and time normally associated with a formal investigation. An impartial mediator will hold a structured meeting at which both parties can have their say. It is a positive way of reaching agreement about how each party will behave towards the other in future. A written agreement is then drawn up between both parties to prevent further friction and misunderstandings.
- 15.3 Mediation is outside the formal complaints procedure and, as such, is not designed to establish facts or to decide if someone was at fault. It is purely a method of resolving past conflict and agreeing a positive way forward.
- 15.4 Any employees who want to follow the mediation process should contact a HR Champion, a Trade Union representative or the HR Mediation Co-ordinator. Contact details are

available from the HR Department and are also on ICON. The Mediation Co-ordinator will provide details about how the process works and will decide whether or not mediation would be appropriate.

- 15.5 If you go through mediation and it is not successful, you can then go through the formal complaints procedure.

16 Formal procedure

- 16.1 The formal procedure will be followed if:

- either you or we decide that the seriousness of your complaint makes this necessary;
- all attempts at informal resolution or mediation have failed;
or
- you particularly want to make a formal complaint.

- 16.2 The complaint should be formally reported in writing, to the accused person's line manager or to the HR Manager if, for example, the alleged bully or harasser is known to be friends of the line manager. A Trade Union representative can raise a complaint on your behalf. A copy of the written statement of complaint form should be copied to the manager. At this stage, your complaint will be treated as an allegation only, which means that it is not proven and will be investigated.

- 16.3 We will appoint an appropriate ICO officer, who has been trained in conducting bullying and harassment investigations, to carry out an investigation based on the completed complaint form. To ensure impartiality the manager (the investigating manager) should have no personal involvement with you or the person you are complaining about, and they may therefore come from a different division or department.

- 16.4 The investigating manager will acknowledge your complaint and arrange to meet you to discuss your statement within 5 working days, where possible. You have the right to be accompanied at any stage by either a Trade Union representative or an ICO colleague. However, you have no right under this procedure to be accompanied by anyone else other than those previously referred to.

- 16.5 The full investigation should begin within 10 working days of the HR Department receiving your original complaint, where possible.

- 16.6 The accused person must be informed of the nature of the allegations, in person, by the investigating manager **before** the investigation begins.
- 16.7 The investigating manager should carry out a full investigation, collecting evidence and/or taking statements from you, the person you are complaining about and any witnesses.
- 16.8 It is recommended that the investigation into any complaint is carried out and concluded as quickly as possible, and normally within 21 working days of receiving the complaint, where possible. However, some cases will be more complex and therefore take longer to investigate. The investigating manager will keep both parties informed of progress and expected timescales.
- 16.9 If you have made a serious allegation, or to protect you or the person you have complained about, it may be appropriate to move either of you to another work area while the investigation is going on. If this is not possible, the investigating manager may consider suspending the person you have complained about from duty, on full pay, until the investigation has been completed. Suspension is a neutral act and does not presume guilt or innocence. These options will only be considered as a last resort.
- 16.10 Employees may be accompanied at any stage of the formal procedure by either a Trade Union representative or an ICO colleague. To make sure that meetings do not have to be delayed or postponed at the last minute, the investigating manager should tell everyone involved in advance of the time and date for the meeting, in line with the time limits set out in this procedure.
- 16.11 If your Trade Union representative or colleague cannot attend on the date proposed, you can suggest an alternative time and date for the meeting, as long as it is reasonable and falls within 5 working days of the date proposed by the investigating manager. In proposing an alternative date, you should consider the investigating manager's availability. For instance, it would not be reasonable to propose a new date for the meeting when you knew that the investigating manager was going to be out of the office.
- 16.12 After the investigation, the investigating manager should hold separate meetings with both parties and representatives to

report the outcome of the investigation, including their recommendations about action to be taken. In reaching their decision, the investigating manager will consult the line manager of the person complained about, and that line manager will also attend if necessary. The outcome of the meetings must be confirmed in writing to both parties together with a copy of the investigation report and all the relevant evidence. Any further action will be dealt with or arranged by HR.

16.13 Possible outcomes of such an investigation

Complaint upheld:

- Hold a disciplinary hearing to consider the case against the perpetrator, which may result in a warning for misconduct or dismissal for gross misconduct.
- Resolve the complaint through an apology and an instruction to the perpetrator to correct their behaviour. Also offer mediation to both parties.
- Arrange for the perpetrator to undertake appropriate training and address any other issues that may have contributed to their behaviour.
- No one-to-one contact between the perpetrator and the person who made the complaint, if this is possible and appropriate.

Complaint not upheld:

- Take no action against the accused person as the complaint was unfounded.
- Offer mediation to both parties.
- Take any appropriate remedial action against the employee if it is considered that the complaint was malicious.

16.14 If disciplinary action is necessary, a separate disciplinary hearing would be arranged under the provisions of the ICO's disciplinary procedure.

16.15 The investigating manager should also consider the need to include a review period to check if the agreed resolution has taken place.

17 Records and monitoring

17.1 During the investigation, the investigating manager should keep copies of paperwork and correspondence and, after the

investigation is complete, file them appropriately to maintain confidentiality. The paperwork will be stored by the HR Team and a copy of the outcome letter will be kept on the personnel files of both parties.

- 17.2 To measure the policy's effectiveness and to identify any possible improvements, the HR Director will monitor this policy and procedure using completed monitoring forms to produce reports and recommendations for improving good practice. To maintain confidentiality, the identity of individuals will not be published.

18 Right of appeal

- 18.1 If either the person complaining or the person being complained about is not satisfied with the outcome of the formal procedure, they should write to the HR Director within 10 working days of receiving the investigating manager's letter confirming the outcome, to request a review of the findings. The HR Director will arrange for an appropriate manager to deal with the appeal and will set up an appeal hearing.
- 18.2 If either party is not happy with the way in which the investigation was conducted, they can lodge a grievance through the ICO's grievance procedure.

19 Appeal procedure

- 19.1 If you give written notice of appeal, you must state on what basis you are making the appeal and, to save time, you should also provide details of your and your representative's availability to attend the appeal over the next two months.
- 19.2 All appeals will be dealt with within the ICO. You will have no further right of internal appeal.
- 19.3 You have the right to be accompanied at the appeal hearing by a work colleague or an appropriate Trade Union representative.
- 19.4 All parties involved will be given at least 5 working days notice in writing of the date, time, place and any other arrangements of the appeal hearing.
- 19.5 The appeal hearing's decision will be confirmed in writing to all parties within 5 working days of the hearing.

- 19.6 The appeal decision may dismiss the appeal and confirm the original decision or uphold the appeal and overturn the original decision.
- 19.7 A letter confirming the decision will be sent to both parties within 5 working days of the appeal, unless otherwise agreed.
- 19.8 Annex A details the conduct of the appeal hearing.

20 Date of operation

- 20.1 This procedure has been agreed with Trade Union Representatives and adopted by the ICO Executive Team with effect from 1 September 2006.
- 20.2 The procedure will be reviewed periodically, if required, by changes in legislation, significant developments in employment law practice or at the request of the Joint Consultative Committee.

21 Associated policies

Health and Safety Policy
Whistle-blowing Policy
Code of Conduct for Employees
Disciplinary Policy
Grievance Policy

APPENDIX 1

Conduct of the appeal hearing

Roles

- The Chair is responsible for making a decision based on the evidence presented by both parties.
- The HR representative is there to advise on the conduct of the hearing and offer advice to the Chair when reaching a decision.
- The employee raising the appeal and their representative must explain why they have raised the appeal and what they think the solution or remedy should be.
- The manager who dealt with the original complaint will be asked for their views on the decisions made to date relating to the complaint, including any actions taken to try and resolve the matter. The manager may be supported by an appropriate HR representative.

Introductions

- The Chair hearing the appeal should introduce all present, explain the purpose of the meeting (ie. to consider whether the appeal can be resolved, upheld or dismissed) and explain how the meeting will be conducted.

Statement of the grievance or dispute

- The Chair should establish precisely what the appeal is and invite the employees involved to present their case and any relevant supporting information.

Manager's reply

- The manager who dealt with the original complaint will have the opportunity to present the reasons for their decision and any relevant supporting information.

Civility

- The meeting should be conducted courteously and fairly, with the emphasis being on establishing the facts. To achieve this, all parties should be free to ask questions politely and to comment appropriately.

Summing up

- After general questioning and discussion, both parties should be given the opportunity to summarise their main points, with the employee having the right to go last.

Adjournment

- The Chair should consider his or her decision in private with a HR representative. If it is necessary to recall one of the parties to clear up any points of uncertainty, both parties should be invited to return.

The decision

- All parties involved should be recalled and the managers hearing the case should inform them of the decision, which will be confirmed in writing.

Note: The Chair may decide that further investigation is needed and arrange for this to be conducted, which will mean that a further hearing is convened at a later date. Or, the Chair may consider it necessary to review the information and confirm the outcome of the appeal in writing after the hearing.

APPENDIX 2

Good management behaviours vs bullying behaviours

Good management	Bullying
Setting realistic targets	Deliberately setting unachievable targets
Giving feedback in private	Giving negative feedback in public
Legitimate, constructive and fair criticism of performance or behaviour	Unfair or unjustified criticism
Regular supervision	Intrusiveness, over-managing
Keeping records	Keeping unnecessary and unjustified records on irrelevant information, e.g. toilet visits
Challenging poor performance in order to improve performance	Unsubstantiated criticism with no improvement plan

Sometimes, behaviour that is construed as bullying or harassment is actually poor management. It is sometimes difficult to distinguish between good, close management and over management. In these instances, training and guidance will be provided for the manager concerned and their performance will be monitored.

APPENDIX 3

Guidance to staff who feel that they are being subjected to unacceptable behaviour

1. Keep a record of events and incidents.
2. Get advice from your line manager, Trade Union representative, HR Champion or member of the HR Team.
3. Consider following the informal procedure outlined in this policy.
4. Consider mediation and get advice from the mediation co-ordinator (based in the HR Team).
5. Consider completing a bullying and harassment complaint form (appendix 4) and raise a formal complaint using the method outlined in the policy.

All staff have the right to complain if they consider they are being harassed or bullied. Employees who suffer such treatment are encouraged to keep a diary of events so that the extent of the problem can be determined. Any employee making a complaint of bullying or harassment can be assured that they will be protected from any victimisation that could arise as a result of making a complaint.

Appendix 4

Dignity at work complaint form

Name:	Date of complaint (today's date)
Team:	
Your job title	
Please list the names of the alleged bullies/harassers?	
Was there anyone else present who witnessed the incident(s)?	
In your own words, describe the incident(s), including: <ul style="list-style-type: none">• dates, times and places;• the people involved, including witnesses;• your feelings concerning the incident(s); and• how long the situation has been going on.	
(Please continue on a separate sheet if necessary.)	

What outcome, if any, would you like to see?

Please add any other relevant information in the space below.

Please keep a copy of this form along with any written response for future reference.

You should put this form in an envelope marked 'Private and Confidential' and give it to your line manager or a member of the HR Team.

